UNITED STATES DISTRICT COURT

FOR THE

MIDDLE DISTRICT OF GEORGIA

LOCAL RULES

(As Amended April 15, 1999)

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PREAMBLE

The Court promulgates the following Local Rules to supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. These rules are intended to promote the just, efficient, and economical determination of cases pending in the Middle District of Georgia.

In addition to these Local Rules, the Court also promulgates the Standards of Conduct set forth below. These Standards embody the principles to which most litigating lawyers already adhere and are set forth here for ease of reference to benefit the community, practicing lawyers, and new members of the bar. These Standards are intended to be aspirational and voluntary. They are not intended to generate disputes that may result in additional litigation, and they should not be cited as legal authority in any disciplinary proceeding or in any civil or criminal action. Rather, it is hoped that the Standards will be used as an educational tool with the effect of promoting efficient and respectful conduct of litigation.

STANDARDS OF CONDUCT

A. In his or her representation of a client, a lawyer should conduct himself or herself in a manner which, without compromising the interest of his or her client, will facilitate the resolution of disputed matters. Accordingly, a lawyer should:

1. maintain open communication with opposing lawyers;

2. communicate respectfully with other lawyers;

3. respect the schedule of opposing lawyers and be truthful about his or her own schedule;

4. present issues efficiently without unnecessarily burdening opposing lawyers by discovery or otherwise;

5. discuss each issue with opposing lawyers in a good faith attempt to resolve it without protracted negotiation or unnecessary litigation;

6. be guided by the principle that representations on behalf of his or her client ought to be characterized by good faith and honesty;

7. avoid creating unnecessary animosity or contentiousness;

8. avoid setting forth allegations against another lawyer unless relevant to the proceeding and well founded; and

9. require those under his or her control to comply with these guidelines and encourage clients and others to do likewise.

B. The application of these guidelines to situations frequently occurring in a litigation practice are described herein.

1. Continuances and Extensions of Time

a. First requests for reasonable extensions of time to respond to litigation deadlines, whether relating to pleadings, discovery or motions, should ordinarily be consented to as a matter of courtesy unless time is of the essence. A first extension should be consented to even if the lawyer requesting it has previously refused to consent to an extension.

b. After a first extension, any additional requests for time should be dealt with by balancing the need for expedition against the deference one should ordinarily give to an opponent's schedule of professional and personal engagements, the reasonableness of the length of extension requested, the opponent's willingness to consent to reciprocal extensions, the time actually needed for the task, and whether it is likely a court would grant the extension if asked to do so.

c. A lawyer should inform clients that the decision whether to consent to extensions of time belongs to the lawyer and not to the client.

d. A lawyer should not seek extensions or continuances for the purpose of harassment or prolonging litigation.

e. A lawyer should not attach to extensions unfair and extraneous conditions. A lawyer is entitled to impose conditions such as preserving rights that an extension might jeopardize or seeking reciprocal scheduling concessions. A lawyer should not, by consenting to extensions, seek to preclude an opponent's substantive rights, such as his or her right to move against a complaint.

2. Service of Papers

a. The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

b. Papers should not be served so close to a court appearance that they inhibit the ability of opposing lawyers to prepare for the appearance or to respond to the papers, where the law permits a response. In making or responding to a motion for preliminary injunction or other emergency matters, a lawyer should make reasonable efforts to comply with the spirit of this rule.

c. Papers should not be served in order to take advantage of a lawyer's known absence from the office or at a time or in a manner designed to inconvenience a lawyer or his/her client, such as late on Friday afternoon or the day preceding a secular or religious holiday.

d. Service should be made personally or by facsimile transmission when it is likely that service by mail, even when allowed, will prejudice the opposing party. A lawyer who has obtained a short order of notice and knows the identity of or can reasonably identify the opposing lawyer should immediately notify that lawyer by telephone or by facsimile. A lawyer who receives notification as described above should immediately notify his or her client of any temporary restraining order and that he or she is bound by it even before formal service is made.

3. Written Submissions to a Court, Including Briefs, Memoranda, Affidavits and Declarations

a. Written briefs or memoranda of points and authorities should not rely on facts that are not properly part of the record or subject to judicial notice.

b. Neither written submissions nor oral presentations should disparage the intelligence, ethics, morals, integrity or personal behavior of another lawyer or his/her client, unless such matters are directly and necessarily in issue.

4. Communications With Lawyers

a. A lawyer should at all times be civil and courteous in communicating with other lawyers, whether in writing or orally.

b. A lawyer should not write a letter to ascribe to another lawyer a position he or she has not taken or to create "a record" of events that have not occurred.

c. Letters intended only to make a record should be used sparingly and only when thought to be necessary under all the circumstances.

d. Unless specifically permitted or invited by the court, letters between lawyers should not be sent to judges.

5. Depositions

a. Depositions should be taken only where actually needed to ascertain facts or information or to perpetuate testimony for purposes of the case in which the deposition is taken. They should never be used as a means of harassment or to generate expense or solely to obtain information for use in other pending or anticipated litigation.

b. In scheduling depositions reasonable consideration should be given to accommodating schedules of opposing lawyers and of the deponent, where it is possible to do so without prejudicing the client's rights.

c. Before issuing notice of deposition, a lawyer should contact all lawyers of record in an attempt to reach agreement on a schedule for all depositions and all lawyers should attempt in good faith to abide by any agreement reached.

d. A lawyer should not attempt to delay a deposition for dilatory purposes.

e. A lawyer should not inquire into a deponent's personal affairs or question a deponent's integrity where such inquiry is irrelevant to the subject matter of the deposition.

f. A lawyer should not harass a deponent and should refrain from repetitive or argumentative questions.

g. A lawyer defending a deposition should limit objections to those that are well founded and necessary for the protection of a client's interest. A lawyer should bear in mind that most objections are preserved and need be interposed only when the form of a question is defective or privileged information is sought.

h. While a question is pending, a lawyer should not, through objections or otherwise, coach the deponent or suggest answers.

i. A lawyer should not direct a deponent to refuse to answer questions unless he or she has a good faith basis for claiming privilege, for seeking a protective order, or for enforcing a limitation imposed by the court.

j. A lawyer should refrain from self-serving speeches during depositions.

k. A lawyer should not engage in any conduct during a deposition that would not be allowed or would be inappropriate in the presence of a judicial officer or a jury.

6. Interrogatories

a. Interrogatories should not be used to harass or impose undue burden or expense.

b. Interrogatories should not be read by the lawyer in an artificial manner designated to assure that answers are not truly responsive.

c. Objections to interrogatories should be based on a good faith belief in their merit and not be made for the purpose of withholding relevant information. If an interrogatory is objectionable only in part, the unobjectionable portion should be answered.

7. Document Demands

a. Demands for production of documents should be limited to documents actually and reasonably believed to be needed for the prosecution or defense of an action and not made to harass or embarrass a party or witness or to impose an inordinate burden or expense in responding.

b. Demands for document production should not be so broad as to encompass documents clearly not relevant to the subject matter of the case.

c. In responding to document demands, a lawyer should not strain to interpret the request in an artificially restrictive manner in order to avoid disclosure.

d. Documents should be withheld on the grounds of privilege only where there is a good faith basis for asserting privilege.

e. A lawyer should not produce documents in a disorganized or unintelligible fashion, or in a way calculated to hide or obscure the existence of particular documents.

f. Document production should not be delayed to prevent opposing lawyers from inspecting documents prior to scheduled depositions or for any other tactical reason.

8. Motion Practice

a. Absent justification to do otherwise, before filing or serving a motion, a lawyer should engage the opposing lawyer(s) in more than a mere pro forma discussion of its purpose in an effort to resolve the issue.

b. A lawyer should respond in good faith to any request for an assent to a motion.

9. Ex Parte Communications With the Court

a. A lawyer should avoid ex parte communication on the substance of a pending case with a judge (or his or her law clerk) before whom such case is pending.

b. Even where applicable laws or rules permit an ex parte application or communication to the court, before making such an application or communication, a lawyer should make diligent efforts to notify the opposing party or a lawyer known to represent or likely to represent the opposing party and should make reasonable efforts to accommodate the schedule of such lawyer to permit the opposing party to be represented on the application, unless subsection (c.) applies.

c. Where the rules permit an ex parte application or communication to the court in an emergency situation, a lawyer should make such an application or communication (including an application to shorten an otherwise applicable time period) only where there is a bona fide emergency such that the lawyer's client will be seriously prejudiced by a failure to make the application or communication on regular notice.

10. Settlement and Alternative Dispute Resolution

a. A lawyer should raise and explore with his or her client the issue of settlement in every case as soon as enough is known about the case to make that discussion meaningful.

b. A lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.

c. In every case, a lawyer should consider, and discuss with his or her client, whether the client's interest could be adequately served and the controversy more expeditiously and economically disposed of by arbitration, mediation or other forms of alternative dispute resolution.

11. Trials and Hearings

a. A lawyer should be punctual and prepared for any court appearance.

b. A lawyer should always deal with parties, other lawyers, witnesses, jurors or prospective jurors, court personnel and the judge with courtesy and civility.

The judges of this district express their gratitude to the Boston Bar Association for permission to reprint the Standards of Conduct from the Boston Bar Journal.

LOCAL RULE 3

DIVISIONS OF THE COURT

3.1 SIX DIVISIONS. The United States District Court for the Middle District of Georgia is divided into six divisions: Macon, Columbus, Albany, Athens, Valdosta, and Thomasville. See attached map of district.

3.2 DIVISIONAL CLERK'S OFFICES. Divisional Clerk's Offices are staffed and open at all times in Albany, Athens, Columbus, Macon and Valdosta. When court is in session, the Thomasville Clerk's Office is staffed and open. Thomasville case files are maintained in Valdosta.

3.3 DIVISION FILINGS. Although it is recommended that all pleadings and papers in civil and criminal cases be filed in the divisional office in which the case file is maintained, such pleadings and papers may be filed in any divisional clerk's office within this district. In such event, the clerk of the court shall receive and mark the pleadings and papers filed and promptly forward such pleadings and papers to the divisional office in which the case file is maintained.

3.4 VENUE IN CIVIL CASES. Plaintiff may file a civil case in the division in which the plaintiff resides, the defendant resides or the claim arose. The clerk of the court is directed to transfer to the appropriate division any civil case that is filed in a division in which neither the plaintiff or defendant resides nor the claim arose.

LOCAL RULE 5

FILING WITH THE COURT

5.1 FILING OF DISCOVERY. ALL DISCOVERY MATERIAL SHALL BE FILED unless the presiding judge gives permission for it to be retained by counsel.

5.2 ACCEPTANCE OF FACSIMILE TRANSMISSIONS. Filings by facsimile transmission will only be accepted in compelling circumstances and **only with prior authorization** from any district judge, magistrate judge, the clerk or chief deputy of the court. The routine filing of pleadings will not be authorized by facsimile transmission.

5.3 AFTER FILING FACSIMILE TRANSMISSIONS. After receiving authorization to file pleadings by facsimile transmission, counsel shall immediately file the original pleading by conventional means. Upon receipt in the Clerk's Office the original will be filed nunc pro tunc to the receipt date of the facsimile transmission copy. The court may, at its election, act upon the facsimile transmission copy prior to receipt of the original.

In the event that a document is transmitted by facsimile machine without prior authorization, the filing party will be notified that the documents will not be accepted for filing and that filing must instead be accomplished by conventional means.

LOCAL RULE 6

CONTINUANCES AND EXTENSIONS OF TIME

6.1 GENERALLY. A continuance of any trial, pretrial conference, or other hearing will be granted only by the court on its own motion or on motion of any party. Continuances may not be obtained by stipulation between counsel.

Any extensions of time within which to answer the complaint by affirmative defenses or other defensive pleadings may be done by written, filed stipulations of counsel, not to exceed more than 30 days from the original answer deadline without approval of the court. If a party is unable to obtain a stipulation or if more than thirty (30) days is needed, the party should seek an extension by motion to the court pursuant to Rule 6(b) of the Federal Rules of Civil Procedure.

6.2 EXTENSIONS FOR FILING OF BRIEFS. In civil cases, the clerk of the court and his deputies are authorized to permit extensions of time to a date certain not to exceed fourteen (14) days for the filing of briefs. No more than one (1) such extension may be granted by the clerk for the same brief. Permission of the court must be obtained for any additional extensions. A party requesting an additional extension must do so by written motion filed no later than two (2) business days before the expiration of the extension granted by the clerk. The motion shall state why an additional extension is needed.

6.3 CALCULATION OF TIME.

a. Service by Mail

(1) Time periods less than eleven (11) days. For time periods less than eleven (11) days, the response time is first calculated as directed by Fed.R.Civ.P. 6(a) (excluding weekends and holidays) and then three (3) days for mailing (including weekends and holidays) is added to the computed date (Fed.R.Civ.P. 6(e)). For

example, under Rule 6(a), a ten (10) day reply period becomes at least fourteen (14) days because of intervening weekends (longer if a legal holiday is included) and the period enlarges to seventeen (17) days if service is by mail.

(2) Time periods of eleven (11) days or more. For time periods of eleven (11) days or more, the three day mail extension of Rule 6(e) is added to the stated response time to create a lengthened time period. For example, a response time of twenty (20) days becomes a response time of twenty-three (23) days.

b. Service by Hand Delivery

In cases where service is made by hand delivery, the above calculations will apply with the exception of the three-day mail extension. For example, using the example in paragraph a(1), the response time is fourteen (14) days (fifteen (15) days if a legal holiday is involved); using the example in paragraph a(2), the response time is twenty (20) days.

LOCAL RULE 7

MOTIONS

7.1 FILING. Unless the assigned judge prescribes otherwise, every motion filed in a civil proceeding shall be accompanied by a memorandum of law citing supporting authorities. Civil motions that include allegations of fact must be supported by a statement of fact. This rule does not apply to motions for enlargement of time. Where possible, multiple motions filed at the same time, in the same case, shall be consolidated into one motion with multiple, clearly labeled parts and subparts.

7.2 RESPONSE. Respondent's counsel desiring to submit a response, brief, or affidavits shall serve the same within twenty (20) days after service of movant's motion and brief.

7.3 REPLY. Movant's counsel shall serve any desired reply brief, argument, or affidavit within ten (10) days after service of respondent's response, brief, or affidavit.

7.4 PAGE LIMITATION. Except upon good cause shown and leave given by the court, all briefs in support of a motion or in response to a motion are limited in length to twenty (20) pages; the movant's reply brief may not exceed ten (10) pages. A party seeking permission to exceed these limitations shall do so by filing a written motion no later than two (2) business days in advance of the deadline for filing the brief and by specifying the number of pages requested.

7.5 HEARINGS. All motions shall be decided by the court without a hearing unless otherwise ordered by the court on its own motion or in its discretion upon request of counsel. Counsel desiring a hearing on a motion must make a request by written motion.

7.6 MOTIONS FOR RECONSIDERATION. Motions for Reconsideration shall not be filed as a matter of routine practice. Whenever a party or attorney for a party believes it is absolutely necessary to file a motion to reconsider an order or judgment, the motion shall be filed with the Clerk of court within ten (10) days after entry of the order or judgment. Responses shall be filed not later than ten (10) days after service of the motion. Parties and attorneys for the parties shall not file motions to reconsider the court's denial or grant of a prior motion for reconsideration.

7.7 MOTIONS EXCEPTED FROM STANDARD BRIEFING SCHEDULE. The following motions may be considered by the Court immediately after filing: motions for extension of time, motions to exceed the page limitation, motions for hearings, motions to file surreply briefs, motions which clearly have no basis in law, and such other motions as the Court may otherwise determine from the parties to be unopposed or in which the Court may clearly determine from the record before it the relative legal positions of the parties so as to obviate the need for the filing of opposition thereto. Objections to the motions will be entertained even after entry of an order on the motion, however. Any party desiring to submit an objection to one of the foregoing motions must file a written objection within five (5) days after service of the motion.

LOCAL RULE 9

SOCIAL SECURITY APPEALS

9.1 JUDICIAL REVIEW. Judicial review of any final decision of the Secretary is obtained by filing a civil action pursuant to 42 U.S.C. § 405(G) alleging that the Secretary's decision should be modified, reversed, or remanded. As the term "review" indicates, the court in such cases is acting as a quasi appellate court. Its task is to affirm, modify, remand, or reverse the Secretary's decision, and the standard for doing so is as set forth in the statute. Motions for summary judgment are not appropriate since the issue is not whether there is any genuine issue as to any material fact; instead, it is whether the Secretary's findings of fact are supported by substantial evidence.

9.2 BRIEFING SCHEDULE. After service of an answer by the Secretary, claimant will have thirty (30) days within which to file his brief. The Secretary must then submit a brief within thirty (30) days after receipt of claimant's brief. Within five (5) days after receiving the Secretary's brief, claimant may submit a reply brief if so desired.

9.3 EXTENSIONS OF TIME. The Clerk of court and his deputy clerks are authorized to grant one extension of time for filing briefs in social security appeals. The party seeking the extension must make his request in writing with a copy to opposing counsel. Reasonable requests for extensions of time will be granted. If either party needs any additional extensions of time for filing briefs, they must make their request by way of a motion to the court.

LOCAL RULE 16.1

PRETRIAL CONFERENCES AND PROCEDURES

16.1.1 PRETRIAL CONFERENCE. A civil case may be scheduled for pretrial conference anytime after the expiration of the discovery period. Counsel who will actually try the case and other counsel of record with authority to define issues, make stipulations and discuss settlement, shall attend the pretrial conference.

16.1.2 PRETRIAL ORDER. The parties shall submit a jointly proposed pretrial order in the form prescribed by the assigned judge on the date specified in the notice of the pretrial conference. When entered by or at the direction of the assigned judge, the pretrial order shall supersede all prior pleadings, shall control the trial of the case, and shall be amended only by order of the court and only upon a showing of good cause.

LOCAL RULE 16.2

COURT ANNEXED ARBITRATION

16.2.1 STATEMENT OF PURPOSE. It is the purpose of the Court, through adoption and implementation of this rule, to provide an alternative mechanism for the resolution of civil disputes (a Court annexed, voluntary arbitration procedure) leading to an early disposition of many civil cases with resultant savings in time and costs to the litigants and to the Court, but without sacrificing the quality of justice to be rendered or the right of the litigants to a full trial de novo on demand.

16.2.2 CERTIFICATION OF ARBITRATORS.

(a) The Chief Judge or his designee judge shall certify those persons who are eligible and qualified to serve as arbitrators under this rule, in such numbers as he shall deem appropriate, and shall have complete discretion and authority to thereafter withdraw the certification of any arbitrator at any time.

(b) An individual may be certified to serve as an arbitrator under this rule if:

(1) He has been for at least ten years a member of a State Bar;

(2) He is admitted to practice before this Court or any other United States District Court;

(3) He is determined by the Chief Judge to be competent to perform the duties of an arbitrator.

(c) Each individual certified as an arbitrator shall take the oath or affirmation prescribed by 28 U.S.C. § 453 before serving as an arbitrator. Current lists of all persons certified as arbitrators in each Division of the Court, respectively, shall be maintained in the office of the Clerk. Depending upon

the availability of funds from the Administrative Office of the United States Courts, or other appropriate agency, arbitrators shall be compensated for their services in such amounts and in such manner as the Chief Judge shall specify from time to time by standing order; and no arbitrator shall charge or accept for his services any fee or reimbursement from any other source whatever absent written approval of the Court given in advance of any such payment. Any member of the bar who is certified and designated as an arbitrator pursuant to these rules shall not for that reason be disqualified from appearing and acting as counsel in any other case pending before the Court.

(d) Any person selected as an arbitrator may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144, and shall disqualify himself in any action in which he would be required to do so if he were a justice, judge, or magistrate judge governed by 28 U.S.C. § 455.

16.2.3 CASES TO BE ARBITRATED.

(a) All civil actions, except those identified in Local Rule 26c, shall be referred by the Clerk to arbitration in accordance with this section subject to the right of any party to opt-out as provided hereafter in section 16.2.4. By not opting-out as provided in section 16.2.4, the court will presume that a party has freely and knowingly consented to the arbitration process. No party or attorney will be prejudiced by refusing to consent to arbitration.

(b) Cases pending at the time of implementation of the arbitration program may be put into the program if the case has not already been pretried and if the presiding judge so directs.

(c) The arbitration process will not interfere with the normal progression of a case through the discovery process. Federal Rules of Civil Procedure Rule 16(b) Scheduling Orders will still be requested of the parties and it is expected that a certain amount of discovery will have been completed prior to the arbitration hearing.

16.2.4 PROCEDURE.

(a) In any civil action subject to arbitration pursuant to Rule 16.2.3, the Clerk shall notify the parties within twenty (20) days after an answer has been filed that the action is being referred to arbitration in accordance with these rules. [If a motion to dismiss is filed in lieu of an answer the case will be referred to arbitration after the motion has been ruled on. Pending motions other than motions to dismiss will not delay arbitration.] Within twenty (20) days thereafter, by written notice to the Clerk, either party may exercise its right to opt-out of arbitration. Upon the expiration of such twenty (20) day period and in absence of timely notice of desire to withdraw from arbitration, the Clerk will begin the arbitrator selection process. First, three (3) names will be chosen from the arbitrator list and mailed to the parties. Each party will be allowed to strike or reject confidentially one of the three names. The one name remaining (or the first name on the list if more than one name is left) will be selected as the arbitrator.

(b) Upon selection and designation of the arbitrator, the Clerk shall communicate with the parties and the arbitrator in an effort to ascertain a mutually convenient date for a hearing, and shall then schedule and give notice of the date and time of the arbitration hearing which shall be held in space to be provided in a United States Courthouse. The hearing shall be scheduled within ninety (90) days from the date of the selection and designation of the arbitrator on at least twenty (20) days notice to the parties. Any continuance of the hearing beyond that ninety (90) day period may be allowed only by order of the Court for good cause shown.

(c) The award of the arbitrator shall be filed with the Clerk within ten (10) days following the hearing, and the Clerk shall give immediate notice to the parties.

(d) At the end of thirty (30) days after the filing of the arbitrator's award the Clerk shall enter judgment on the award if no timely demand for trial de novo has been made. If the parties have previously stipulated in writing that the award shall be final and binding, the Clerk shall enter judgment on the award when filed.

(e) Within thirty (30) days after the filing of the arbitration award the Clerk, any party may demand a trial de novo in District Court. Written notification of such a demand shall be filed with the Clerk and a copy shall be served by the moving party upon all other parties.

16.2.5 ARBITRATION HEARING.

(a) The arbitration hearing may proceed in the absence of a party who, after due notice fails to be present; but an award of damages shall not be based solely upon the absence of a party.

(b) At least ten (10) days prior to the arbitration hearing each party shall furnish to every other party a list of witnesses, if any, and copies (or photographs) of all exhibits to be offered at the hearing. The arbitrator may refuse to consider any witness or exhibit which has not been so disclosed.

(c) Individual parties or authorized representative of corporate parties shall attend the arbitration hearing unless excused in advance by the arbitrator for good cause shown. The hearing shall be conducted informally; the Federal Rules of Evidence shall be a guide, but shall not be binding. It is contemplated by the Court that the presentation of testimony shall be kept to a minimum, and that cases shall be presented to the arbitrator primarily through the statements and argument of counsel.

(d) Any party may have a recording and transcript made of the arbitration hearing at his expense.

16.2.6 AWARDS.

(a) The award shall state the result reached by the arbitrator without necessity of factual findings or legal conclusions.

(b) The contents of any arbitration award shall not be made known to any judge who might be assigned to the case --

(1) Except as necessary for the Court to determine whether to assess costs or attorney fees under 28 U.S.C. § 655,

(2) Until the District Court has entered final judgment in the action or the action has been otherwise terminated, or

(3) Except for purposes of preparing the report required by § 903b of the Judicial Improvements and Access to Justice Act.

16.2.7 TRIAL DE NOVO.

(a) Upon a demand for a trial de novo the action shall be placed on the calendar of the Court and treated for all purposes as if it had not been referred to arbitration, and any right of trial shall be preserved inviolate.

(b) At the trial de novo the Court shall not admit evidence that there has been an arbitration proceeding, the nature or amount of the award or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at an arbitration hearing may be used for any purpose otherwise permitted by the Federal Rules of Evidence or the Federal Rules of Civil Procedure.

(c) No penalty for demanding a trial de novo shall be assessed by the Court.

16.2.8 MEDIATION ENCOURAGED. Private mediation at the expense of the parties is also encouraged by the court. With the consent of all parties, the court will assist in the scheduling of mediation and the selection of a mediator.

LOCAL RULE 26

DISCOVERY PLAN AND ORDER

a. After responsive pleadings are filed in civil cases (except those hereafter identified as exempt), the parties shall confer in person to discuss the nature and basis of their claims and the possibilities for a prompt settlement. The court may order the parties to develop a proposed scheduling/discovery order. If so, the court will describe the required contents of the proposed scheduling/discovery order and will set a deadline for its filing.

b. After receiving the proposed, combined order, the court may consult with counsel by conference, telephone or mail before entering an order.

c. The following categories of civil cases are exempt from this Rule and Local Rule 33.2 Mandatory Interrogatories:

1. Prisoner civil rights cases brought under 42 U.S.C. § 1983 or under Bivens vs. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1970), in which all plaintiffs are unrepresented by an attorney;

2. Appeals from orders entered by a bankruptcy judge or a magistrate judge;

3. Social security cases;

4. Habeas corpus cases arising under 28 U.S.C. § 2254 or § 2255; and

5. Actions brought pursuant to the Administrative Procedures Act.

6. Government collection actions, judicial foreclosure cases, and eviction cases.

d. The court will not require the filing of a scheduling/discovery order while a Motion to Dismiss is pending in the case. If the Motion to Dismiss is denied, the court may then order the parties to develop a proposed scheduling/discovery order.

LOCAL RULE 33.1

INTERROGATORIES

Except with written permission of the court first obtained, interrogatories may not exceed twenty-five (25) to each party. Form, canned, excessive-in-number interrogatories are not usually approved. The answering party must retype the questions with the answers and/or objections following immediately thereafter.

LOCAL RULE 33.2

MANDATORY INTERROGATORIES TO BE ANSWERED BY ALL PLAINTIFFS AND DEFENDANTS

33.2.1 INTRODUCTION. In all categories of civil cases, with the exception of those categories enumerated in Local Rule 26c, the parties shall answer the mandatory interrogatories set forth below. The answers provided to these interrogatories are in lieu of the disclosures required by Rule 26(a)(1)-(3) of the Federal Rules of Civil Procedure.

33.2.2 INTERROGATORIES TO BE ANSWERED BY ALL PLAINTIFFS AT THE TIME OF FILING THE COMPLAINT. The interrogatories to be answered by all plaintiffs are as follows:

1. State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case.

2. Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which plaintiff contends are applicable to this action.

3. List by style and civil action number any pending or previously adjudicated related cases.

4. Identify by full name, address, and telephone number all witnesses whom plaintiff will or may have present at trial, including expert (any witness who might express an opinion under Rule 702 of the Federal Rules of Evidence) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which

the expert is expected to testify, and a summary of the grounds for each opinion. (Attach witness list to answers to mandatory interrogatories as Attachment A.)

5. If you contend that you have been injured or damaged, provide a separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the statute, rule, regulation or case law authorizing a recovery for that particular item of damage.

6. Describe or produce for inspection (see Fed.R.Civ.P. 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your claim or claims. (Attach document list to answers to mandatory interrogatories as Attachment B.)

7. State the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.

33.2.3 INTERROGATORIES TO BE ANSWERED BY ALL DEFENDANTS FOLLOWING THE FILING OF AN ANSWER. The interrogatories to be answered by all defendants are as follows:

1. If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in the answer to this interrogatory.

2. Provide the names of any parties who defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

3. Provide a detailed factual basis for the defense or defenses and any counterclaims or cross claims asserted by defendant in the responsive pleading.

4. Describe or produce for inspection (see Fed.R.Civ.P. 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your defense or defenses or your claims against other parties. (Attach document list to answers to mandatory interrogatories as Attachment A.)

5. Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which defendant contends are applicable to this action.

6. If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address and telephone number of such person or entity and describe in detail the basis of such liability.

7. Provide the names and addresses of all insurance companies that have liability insurance coverage relating to the matter alleged in the complaint, the number or numbers of such policies, the amount of liability coverage provided in each policy, and the named insured on each policy.

8. Identify by full name, address, and telephone number all witnesses whom defendant will or may have present at trial, including expert (any witness who might express an opinion under Rule 702 of the Federal Rules of Evidence) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. (Attach witness list to Answers to Mandatory Interrogatories as Attachment B.)

33.2.4 GENERAL RULES FOR ANSWERING MANDATORY INTERROGATORIES. In answering and supplementing answers to the mandatory interrogatories, the parties shall be governed by the following rules:

1. All interrogatories must be answered fully in writing in accordance with Rules 11 and 33 of the Federal Rules of Civil Procedure.

2. In the event any question cannot be fully answered after the exercise of reasonable diligence, the party shall furnish as complete an answer as possible and explain in detail the reasons why the party cannot give a full answer, state what is needed to be done in order to be in a position to answer fully and estimate when the party will be in that position.

In the event a party fails to answer an interrogatory fully and offers an explanation therefore, the party opponent shall respond to said explanation within ten (10) days after its receipt if the party disagrees with the same.

3. If there is more than one plaintiff or more than one defendant in a case, each interrogatory must be answered separately by each unless the answer is the same for all.

4. Each interrogatory shall be set forth immediately prior to the answer thereto.

5. Plaintiff shall file answers in the office of the Clerk at the time the complaint is filed, and serve a copy of the answers with the summons and complaint or mail a copy with the request for waiver of service of process if mail service is utilized pursuant to Rule 4(d) of the Federal Rules of Civil Procedure except in cases removed to this Court. In addition, plaintiff shall have ten (10) days after receipt of defendant's answers to file and serve amended answers made necessary by the information received from the defendant's answers. In removed cases, plaintiff shall file and serve answers within fifteen (15) days of the date of filing of the notice of removal or within fifteen (15) days of service of the defendant's responsive pleading to the complaint, which ever is later.

6. Defendant shall file answers in the office of the Clerk and serve them on plaintiff within thirty (30) days after serving his answer or other responsive pleading to the complaint except in

cases removed to this Court. In removed cases, defendant shall file and serve answers within ten (10) days after receipt of plaintiff's answers to the mandatory interrogatories.

7. A party shall seasonably, after receipt of the information in question, supplement a response with respect to any question directly related to (1) the identity, address, and telephone number of witnesses whom plaintiff will or may have present at trial, (2) the identity of each person expected to be called as an expert witness at trial, the subject matter in which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion, and (3) the identity of all documents relied upon to support your contentions.

Failure to disclose any such new potential witness or document may result in that witness not being allowed to testify at trial or that document not being admitted at trial.

A party is also under a duty to seasonably, after receipt of the information in question, supplement or amend a prior response if (1) the party learns that in some material respect the response was incomplete or incorrect when made or (2) the party knows that the response, though correct when made, is no longer true or complete and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

33.2.5 SANCTIONS FOR FAILING TO FILE ANSWERS TO MANDATORY INTERROGATORIES.

Upon the failure of a party to timely file answers to mandatory interrgatories, the Clerk shall enter a Show Cause Order directing that the answers to the mandatory interrogatories be filed within ten (10) days, failing which the party must show cause in writing to the presiding judge why his pleading (either complaint or answer) should not be dismissed or stricken from the record for failing to comply with this Local Rule.

LOCAL RULE 34

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Except with written permission of the court first obtained, requests for production under Rule 34 of the Federal Rules of Civil Procedure may not exceed ten (10) requests to each party.

LOCAL RULE 36

REQUESTS FOR ADMISSIONS

Except with written permission of the court first obtained, requests for admissions under Rule 36 of the Federal Rules of Civil Procedure may not exceed ten (10) requests to each party.

LOCAL RULE 37

MOTIONS TO COMPEL

Motions to compel disclosure or discovery will not be considered unless they contain a statement certifying that movant has in good faith conferred or attempted to confer with the opposing party in an effort to secure the information without court action.

LOCAL RULE 48

CIVIL JURIES

All civil actions shall be tried to a jury of twelve members and all jurors shall participate in the verdict unless excused from service by the court. Unless the parties stipulate otherwise, (1) the verdict shall be unanimous, and (2) no verdict may be taken from a jury of fewer than six members.

LOCAL RULE 54.1

MOTIONS FOR ATTORNEY'S FEES

In all cases in which the prevailing party is entitled to an award of attorney's fees, a motion for attorney's fees must be filed within fourteen (14) days from the entry of judgment by the clerk unless otherwise provided by statute. Failure to file such a motion within the prescribed time period will be deemed a waiver of attorney's fees.

All motions for attorney's fees when filed shall include, the following:

a. An itemized bill in which all segments of time are identified as to the nature of the work performed;

b. A breakdown of time for each attorney working on the case;

c. The hourly rate applicable and an explanation of how that hourly rate was arrived at; and

d. A certification by the requesting attorneys that the work performed was reasonably necessary to the preparation and presentation of the case.

LOCAL RULE 54.2

TAXATION OF COSTS

54.2.1 GENERALLY. The clerk of the court shall tax costs as authorized by the law in all civil cases. See Fed.R.Civ.P. 54(d). The requests for taxation of costs by the prevailing party shall be made on a Bill of Costs form provided by the clerk. The Bill of Costs form shall be supplemented with citations of authority and copies of invoices and other supporting documentation. Opposing counsel will be given the opportunity to respond to the prevailing party's Bill of Costs.

54.2.2 TIME FOR FILING. A Bill of Costs must be filed by the prevailing party within thirty (30) days from the entry of the judgment that awarded the costs. Opposing counsel shall have twenty (20) days from the service of the Bill of Costs to file a response.

LOCAL RULE 56

SUMMARY JUDGMENTS - STATEMENT OF FACTS REQUIRED

Upon filing any motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, a separate, short, and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions, and affidavits which support such contentions shall be filed with the motion and supporting memorandum.

The papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts as to which it is contended that there exists a genuine issue of material fact to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions on file and affidavits which support such contentions.

All material facts set forth in the statement served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

Failure to comply with this rule by the moving party may result in denial of the motion.

LOCAL RULE 72

UNITED STATES MAGISTRATE JUDGE DUTIES

72.1 DUTIES UNDER 28 U.S.C. § 636(a). Each full-time United States Magistrate Judge for the Middle District of Georgia is authorized and empowered (except as otherwise ordered by a district judge) to conduct proceedings in the following matters and to enter such orders, verdicts, judgments, sentences, findings and/or recommendations relating thereto, consistent with the Constitution and laws of the United States:

1. All criminal proceedings of a grade of misdemeanor or less, provided the defendant consents thereto, in accordance with applicable provision of law including, but not limited to, 18 U.S.C. § 3401;

2. All cases brought by prisoners filed under 42 U.S.C. § 1983 or Bivens vs. Six Unknown Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1970);

3. All applications for post-trial relief made by individuals convicted of criminal offenses, including, but not limited to, motions for writs of habeas corpus under 28 U.S.C. § 2241 et. seq., § 2254, and § 2255;

4. All social security appeals;

5. All actions filed pursuant to provisions of Title VII of the Civil Rights Act of 1964, as amended; and,

6. Such other civil actions referred by a judge of this court for trial and/or disposition provided all parties therein consent.

72.2 NONDISPOSITIVE PRETRIAL MATTERS. In accordance with 28 U.S.C. § 636(b)(1)(A), magistrate judges shall hear and determine all pretrial criminal and civil matters assigned by the judges of this court except a motion of injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the

defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action.

72.3 DISPOSITIVE PRETRIAL MATTERS. In accordance with 28 U.S.C. § 636(b)(1)(B), magistrate judges are hereby authorized and empowered at the election of the district judge to conduct hearings, including evidentiary hearings, and to submit to the judges of this court PROPOSED FINDINGS OF FACT AND RECOMMENDATIONS for the disposition by said judges of the following motions: a motion of injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action.

72.4 OTHER DUTIES OF MAGISTRATE JUDGES. A magistrate judge is also authorized to:

a. Conduct arraignments in cases not triable by the magistrate judge to the extent of taking a not guilty plea;

b. Receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;

c. Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings;

d. Order the exoneration or forfeiture of bonds;

e. Conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure; and

f. Any and all other duties of a judicial officer of this court as are not inconsistent with the Constitution and laws of the United States; it being the express intention of the court to authorize magistrate judges to conduct any and all proceedings in this court permitted by 28 U.S.C. § 636 whether or not specifically set forth in these rules.

g. Approve and sign scheduling/discovery orders submitted pursuant to Local Rule 26 on all full consent cases.

LOCAL RULE 73

SPECIAL MASTER REFERENCES AND TRIAL BY CONSENT

a. In accordance with 28 U.S.C. § 636 (b)(2), magistrate judges are hereby authorized and empowered to serve as a special master upon specific designation by the judge to whom said matter is assigned.

b. Under 28 U.S.C. § 636(c), and with the consent of all parties, magistrate judges are specifically authorized and empowered to conduct any and all proceedings in a jury or non-jury civil matter and to order the entry of judgment therein.

LOCAL RULE 79

FILES AND EXHIBITS AND REMOVAL THEREOF

79.1 REMOVAL OF ORIGINAL PAPERS. Original papers in the custody of the clerk shall not be removed except by permission of the clerk and then, only after a receipt provided by the clerk has been signed by the removing party.

79.2 EXHIBITS AND DOCUMENTS. All exhibits received into evidence at any trial or hearing shall be retained by the clerk who shall keep them in custody. All such exhibits, including models, diagrams, books or other exhibits other than contraband received into evidence or marked for identification in an action or proceeding shall be removed by the filing party at the expiration of the time for the filing of a Notice of Appeal, or if an appeal is filed, after the final adjudication of the action and disposition of the appeal. Said exhibits if not so removed may be destroyed or otherwise disposed of as the clerk may deem appropriate after ten (10) days notice to counsel.

Sensitive exhibits received in evidence, which shall include but are not limited to, drugs, articles of high monetary value, weapons or contraband of any kind shall be entrusted to the custody of the United States Attorney or to the arresting or investigative agency of the government, who will maintain the integrity of these exhibits pending disposition of the case and for any appeal period thereafter.

LOCAL RULE 83.1

ATTORNEYS

83.1.1 ADMISSIONS

a. ROLL OF ATTORNEYS. The bar of this Court shall consist of those persons heretofore admitted to practice in this court and those who may hereafter be admitted in accordance with this rule.

b. ELIGIBILITY. To be admitted to practice in this court an attorney must have been admitted to practice in the trial courts of the State of Georgia and be a member of the State Bar of Georgia. Only attorneys who are admitted to practice in this Court, or who have otherwise obtained permission under Rule 83.1.2c, may appear as counsel.

c. PROCEDURE FOR ADMISSION.

1. Each applicant for admission to the bar of this Court shall file with the clerk a written petition on the form provided by the clerk setting forth his state bar number and reciting the fact that he is now a member in good standing of the State Bar of Georgia. Each applicant shall also sign an Oath of Admission.

2. The applicant for admission, after completing the petition and signing the oath, shall submit the same to the clerk of the court with the prescribed enrollment fee. If the petition and oath are in proper form, the Clerk for the judges of this court or a judge will sign an order admitting petitioner to practice in this court. A certificate will issue from the clerk's office. Unless requested by the court, petitioner will not be required to make a personal appearance before the court.

83.1.2 DUTIES

a. DESIGNATION OF LEAD COUNSEL. Counsel shall designate the name, address, and telephone number of the attorney who shall act as lead counsel in the case on the signature page of the first pleading filed in every action. In the absence of such designation, the first name appearing on the pleading shall be designated lead counsel. Any subsequent change in lead counsel shall be noted by the filing of a notice.

b. BAR NUMBERS. All counsel are required to designate their State Bar of Georgia Number on the signature page of each pleading filed.

c. PERMISSION TO PRACTICE IN A PARTICULAR CASE. Any member in good standing of the bar of any other district court of the United States who is not a member of the State Bar of Georgia and who does not reside in or maintain an office in this state for the practice of law, will be permitted to appear and participate in a particular case, civil or criminal, in this court subject to the following provisions:

1. In a civil case in which a party is represented only by counsel not a member of the bar of this court, such counsel must designate in writing some willing member of the local bar of this court upon whom motions and papers may be served and who will be designated as local counsel. That designation shall not become effective until such local counsel has entered a written appearance therein.

In addition, in any case in which an attorney makes an appearance in any action or case pending in this court and said attorney is not a member of the bar of this court, he shall certify that he is a member in good standing of a district court of the United States and shall file a certificate of good standing from that court with the clerk of this court.

2. Any attorney representing the United States government, or any agency thereof, may appear and participate in particular actions or proceedings in his official capacity without a petition for admission or certificate of good standing, provided he is a member of a bar of a district court of the United States.

83.1.3 ENTRY OF APPEARANCE. No Attorney shall appear in that capacity before this court until he has entered an appearance by filing a signed entry of appearance form or by filing a signed pleading in a pending action. An entry of appearance shall state (1) the style and number, (2) the identity of the party for whom the appearance is made, and (3) the name and current office address and telephone number of the attorney. The filing of any pleading, unless otherwise specified by the court, shall constitute an appearance by the person(s) signing such pleading.

83.1.4 WITHDRAWAL OF ATTORNEYS IN CIVIL CASES. It is the longstanding policy of this court that attorneys will investigate claims before filing a complaint and, if a complaint is filed, that the attorney will remain with the case until its conclusion. Nevertheless, if there is a compelling reason to withdraw, the attorney must comply with the following procedure.

An attorney (other than a government attorney) appearing of record in any action pending in this district, who wishes to withdraw as counsel for any party therein, shall submit a written motion for an order of court permitting such withdrawal. Such motion shall state that the attorney has given due written notice to his client respecting such intention to withdraw ten (10) days (or such lesser time as the court may permit in any specific instance) prior to submitting the request to the court and/or that such withdrawal is with the client's consent. Such request may be granted

unless in the judge's discretion to do so would delay the trial of the action or otherwise interrupt the orderly operation of the court or be manifestly unfair to the client. The attorney requesting an order permitting withdrawal shall give notice to opposing counsel and shall file with the clerk in each such action and serve upon his client personally or at his last known address, a notice which shall contain at least the following information:

(A) that the attorney wishes to withdraw;

(B) that the court retains jurisdiction of the action;

(C) that the client has the burden of keeping the court informed respecting where notices, pleadings or other papers may be served;

(D) that the client has the obligation to prepare for trial or hire other counsel to prepare for trial when the trial date has been set;

(E) that if the client fails or refuses to meet these burdens, the client may suffer adverse consequences, including, in criminal cases, bond forfeiture and arrest;

(F) the dates of any scheduled proceedings, including trial, and that holding of such proceedings will not be affected by the withdrawal of counsel;

(G) that services of notices may be made upon the client at his last known address; and,

(H) unless the withdrawal is with the client's consent, the client's right to object within ten (10) days of the date of the notice.

The client shall have ten (10) days from the date of the notice to file objections to the withdrawal. If the court enters an order permitting withdrawal, the client shall be notified at his last know address by the Clerk's Office of the effective date of the withdrawal; thereafter all notices or other papers may be served on the party directly by mail at the last known address of the party until new counsel enters an appearance. Ordinarily, the court will expect the filing of a Notice of Appearance by substitute counsel contemporaneous with the filing of the Motion to

Withdraw.

83.1.5 LEAVES OF ABSENCE. Formal applications by attorneys for leaves of absence should not be filed and will not be acted upon unless the attorney has been notified by the court to appear during the time he wishes to be absent.

LOCAL RULE 83.2

RULES GOVERNING ATTORNEY DISCIPLINE

Prefatory Statement

Nothing contained in these rules shall be construed to deny the Court its inherent power to maintain control over the proceedings conducted before it nor to deny the Court those powers derived from statute, rule of procedure, or other rules of court.

When alleged attorney misconduct is brought to the attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before the Court, any officer or employee of the Court, or otherwise, the Court may, in its discretion, dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the local grievance committee as hereinafter defined; or take any other action the court deems appropriate including referring the matter for possible investigative and criminal prosecution. These procedures are not mutually exclusive.

83.2.1 Standards for Professional Conduct.

A. Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility or Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney/client relationship. Attorneys practicing before this Court shall be governed by this Court's Local Rules, by the Rules of Professional Conduct adopted by the highest court of the state in which this Court sits, as amended from time to time by that state court, and, to the

extent not inconsistent with the preceding, the American Bar Association Model Rules of Professional Conduct, except as otherwise provided by specific Rule of this Court.

B. Discipline for misconduct defined in these rules may consist of (a) disbarment, (b) suspension, (c) reprimand, (d) monetary sanctions, (e) removal from this Court's roster of attorneys eligible for practice before this Court, or (f) any other sanction the Court may deem appropriate.

83.2.2 Grievance Committee.

A. The Court, consisting of the active Judges thereof, may appoint a [at least one] standing committee consisting of at least five members of the bar to be known as the "Grievance Committee." One of those first appointed shall serve a term of one year; two for two years; and the remainder and all thereafter appointed for a term of three years. Each member shall serve until his or her successor has been appointed. The Court may vacate any such appointment at any time. The Court shall designate one of the members to serve as chairman. A majority of the committee shall constitute a quorum.

B. Purpose and Function

The purpose and function of the Committee is to conduct, upon referral by the Court, investigations of alleged misconduct of any member of the Bar of this Court, or any attorney appearing and participating in any proceeding before the Court; to conduct, upon referral by the Court, inquiries and investigations into allegations of inadequate performance by an attorney practicing before the Court, as hereinafter provided; to conduct and preside over disciplinary hearings when appropriate and as hereinafter provided; and to submit written findings

and recommendations to the Court for appropriate action by the Court, except as otherwise described herein. The members of the Grievance Committee, while serving in their official capacities, shall be considered to be representatives of and acting under the powers and immunities of the Court, and shall enjoy all such immunities while acting in good faith and in their official capacities.

C. Jurisdiction and Powers

(1) The Court may, in its discretion, refer to the Committee any accusation or evidence of misconduct by way of violation of the disciplinary rules on the part of any member of the bar with respect to any professional matter before this Court for such an investigation, hearing, and report as the Court deems advisable. The Committee may, in its discretion, refer such matters to an appropriate State Bar for preliminary investigation, or may request the Court to appoint special counsel to assist in or exclusively conduct such proceedings, as hereinafter provided in these rules. (See Rule 83.2.11, infra.). The Court may also, in its discretion, refer to the Committee any matter concerning an attorney's failure to maintain an adequate level of competency in his or her practice before this Court, as hereinafter provided. (See Rule 83.2.8, infra.). The Committee may under no circumstances initiate and investigate such matters without prior referral by the Court.

(2) The Committee shall be vested with such powers as are necessary to conduct the proper and expeditious disposition of any matter referred by the Court, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of any witnesses, and to order the production of books, records, or other documentary evidence, and those powers described elsewhere in these rules. The Chairman, or in his or her absence each member of the

Committee, has the power to administer oaths and affirmations to witnesses.

83.2.3 Disciplinary Proceedings.

A. When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court shall come to the attention of a Judge of this Court, whether by complaint or otherwise, the Judge may, in his or her discretion, refer the matter to the Grievance Committee for investigation and, if warranted, the prosecution of formal disciplinary proceedings or the formulation of such other recommendation as may be appropriate.

B. Should the Grievance Committee conclude, after investigation and review, that a formal disciplinary proceeding should not be initiated against an attorney because sufficient evidence is not present or for any other valid reason, the Committee shall file with the Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or any other action. In cases of dismissal, the attorney who is the subject of the investigation need not be notified that a complaint has been submitted or of its ultimate disposition. All investigative reports, records and recommendations generated by or on behalf of the Committee under such circumstances shall remain strictly confidential.

C. If the Committee concludes from preliminary investigation, or otherwise, that probable cause exists, the Committee shall file with the Court a written report of its investigation, stating with specificity the facts supporting its conclusion, and shall apply to the Court for the issuance of an order requiring the attorney to show cause within thirty (30) days after service of that order why the attorney should not be disciplined. The order to show cause shall set forth the particular act or acts of conduct for which he or she is sought to be disciplined. A copy of the

Committee's written report should be provided to the attorney along with the show cause order. The accused attorney may file with the Committee within ten days of service of the order a written response to the order to show cause. After receipt of the attorney's response, if any, the Committee may request that the Court rescind its previously issued order to show cause. If the show cause order is not rescinded, and upon at least ten days notice, the cause shall be set for hearing before the Committee. A record of all proceedings before the Committee shall be made, and shall be made available to the attorney. That record, and all other materials generated by or on behalf of the Committee or in relation to any disciplinary proceedings before the Committee, shall in all other respects remain strictly confidential unless and until otherwise ordered by the Court. In the event the attorney does not appear, the Committee may recommend summary action and shall report its recommendation forthwith to the Court. In the event that the attorney does appear, he or she shall be entitled to be represented by counsel, to present witnesses and other evidence on his or her behalf, and to confront and cross examine witnesses against him. Except as otherwise ordered by the Court or provided in these Rules, the disciplinary proceedings before the Committee shall be guided by the spirit of the Federal Rules of Evidence. Unless he or she asserts a privilege or right properly available to him under applicable federal or state law, the accused attorney may be called as a witness by the Committee to make specific and complete disclosure of all matters material to the charge of misconduct.

D. Upon completion of a disciplinary proceeding, the Committee shall make a full written report to the Court. The Committee shall include its findings of fact as to the charges of misconduct, recommendations as to whether or not the accused attorney should be found guilty of misconduct justifying disciplinary actions by the Court, and recommendations as to the

disciplinary measures to be applied by the Court. The report shall be accompanied by a transcript of the proceedings before the Committee, all pleadings, and all evidentiary exhibits. A copy of the report and recommendation shall also be furnished the attorney. The Committee's written report, transcripts of the proceedings, and all related materials shall remain confidential unless and until otherwise ordered by the Court.

E. Upon receipt of the Committee's finding that misconduct occurred, the Court shall issue an order requiring the attorney to show cause why the Committee's recommendation should not be adopted by the Court. The Court may, after considering the attorney's response, by majority vote of the active Judges thereof, adopt, modify, or reject the Committee's findings that misconduct occurred, and may either impose those sanctions recommended by the Committee or fashion whatever penalties provided by the rules which it deems appropriate.

83.2.4 Attorneys Convicted of Crimes.

A. Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth, or possession of the United States of any serious crime as herein defined, the Court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, nolo contendere, verdict after trial, or otherwise, and regardless of the pendency of any appeal. The suspension so ordered shall remain in effect until final disposition of the disciplinary proceedings to be commenced upon such conviction. A copy of such order shall be immediately served upon the attorney. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

B. The term "serious" crime shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction in which it was entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or the use of dishonesty, or an attempt, conspiracy, or solicitation of another to commit a "serious crime."

C. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based on the conviction.

D. Upon the filing of a certified copy of a judgment of conviction of any attorney for a serious crime, the Court may, in addition to suspending that attorney in accordance with the provisions of this rule, also refer the matter to the Grievance Committee for institution of disciplinary proceedings in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

E. An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed, but the reinstatement will not terminate any disciplinary proceedings then pending against the attorney, the disposition of which shall be determined by the Committee on the basis of all available evidence pertaining to both guilt and the extent of the discipline to be imposed.

83.2.5 Discipline Imposed By Other Courts.

A. An attorney admitted to practice before this Court shall, upon being subjected to suspension or disbarment by a court of any state, territory, commonwealth, or possession of the United States, or upon being subject to any form of public discipline, including but not limited to suspension or disbarment, by any other court of the United States or the District of Columbia, promptly inform the Clerk of this Court of such action.

B. Upon the filing of a certified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another court as described above, this Court may refer the matter to the Grievance Committee for a recommendation for appropriate action, or may issue a notice directed to the attorney containing:

1. A copy of the judgment or order from the other court, and
2. An order to show cause directing that the attorney inform this Court, within thirty days after service of that order upon the attorney, of any claim by the attorney predicated upon the grounds set forth in subsection E, supra, that the imposition of identical discipline by the Court would be unwarranted and the reasons therefor.

C. In the event that the discipline imposed in the other jurisdiction has been stayed there, any reciprocal disciplinary proceedings instituted or discipline imposed in this Court shall be deferred until such stay expires.

D. After consideration of the response called for by the order issued pursuant to subsection B, supra, or after expiration of the time specified in that order, the Court may impose the identical discipline or may impose any other sanction the Court may deem appropriate.

E. A final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purpose of a disciplinary proceeding in this Court, unless the attorney demonstrates and the Court is satisfied that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears that:

1. The procedure in that other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
2. there was such an infirmity of proof establishing misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or
3. the imposition of the same discipline by this Court would result in grave injustice; or
4. the misconduct established is deemed by this Court to warrant substantially different discipline.

F. This Court may at any stage ask the Grievance Committee to conduct disciplinary proceedings or to make recommendations to the Court for appropriate action in light of the imposition of professional discipline by another court.

83.2.6 Disbarment on Consent or Resignation in Other Courts.

A. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from any other bar while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.

B. An attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia,

or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending shall, upon the filing with this Court of a certified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the role of attorneys admitted to practice before this Court.

83.2.7 Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

A. Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit stating that the attorney desires to consent to disbarment and that:

1. The attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;
2. the attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline the nature of which the attorney shall specifically set forth;
3. the attorney acknowledges that the material facts so alleged are true; and
4. the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself.

B. Upon receipt of the required affidavit, this Court shall enter an order disbarring the attorney.

C. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required pursuant to the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

83.2.8 Incompetence and Incapacity.

A. When it appears that an attorney for whatever reason is failing to perform to an adequate level of competence necessary to protect his or her clients' interests, the Court may take any remedial action which it deems appropriate, including but not limited to referral of the affected attorney to appropriate institutions and professional personnel for assistance in raising the affected attorney's level of competency. The Court may also, in its discretion, refer the matter to the Grievance Committee for further investigation and recommendation.

B. A referral to the Grievance Committee of any matter concerning an attorney's failure to maintain an adequate level of competency in his or her practice before this Court is not a disciplinary matter and does not implicate the formal procedures previously described in these Rules. Upon a referral of this sort, the Grievance Committee may request that the attorney meet with it informally and explain the circumstances which gave rise to the referral and may conduct such preliminary inquiries as it deems advisable. If after meeting with the attorney and conducting its preliminary inquiries the Committee determines that further attention is not needed, the Committee shall notify the referring Judge and consider all inquiries terminated.

C. If after meeting with the attorney and conducting its preliminary inquiries the Committee deems the matter warrants further action, it may recommend to the attorney that the

attorney take steps to improve the quality of his or her professional performance and shall specify the nature of the recommended action designed to effect such improvement. The attorney shall be advised of any such recommendation in writing and be given the opportunity to respond thereto, to seek review or revocation of the recommendation, or to suggest alternatives thereto. The Committee may, after receiving such response, modify, amend, revoke, or adhere to its original recommendation. If the attorney agrees to comply with the Committee's final recommendation, the Committee shall report to the referring Judge that the matter has been resolved by the consent of the affected attorney. The Committee may monitor the affected attorney's compliance with its recommendation and may request the assistance of the Court in ensuring that the attorney is complying with the final recommendation.

D. If the Committee finds that there is a substantial likelihood that the affected attorney's continued practice of law may result in serious harm to the attorney's clients pending completion of the remedial program, it may recommend that the Court consider limiting or otherwise imposing appropriate restrictions on the attorney's continuing practice before the Court. The Court may take any action which it deems appropriate to effectuate the Committee's recommendation.

E. Any attorney who takes exception with the Committee's final recommendation shall have the right to have the Court, consisting of the active Judges thereof, consider the recommendation and the response of the affected attorney. The Court may, after considering the attorney's response, by majority vote of the active Judges thereof, adopt, modify, or reject the Committee's recommendations as to the necessary remedial actions and may take whatever actions it deems appropriate to ensure the attorney's compliance.

F. All information, reports, records, and recommendations gathered, possessed, or generated by or on behalf of the Committee in relation to the referral of a matter concerning an attorney's failure to maintain an adequate level of competency in his or her practice before this Court shall be confidential unless and until otherwise ordered by the Court.

G. Nothing contained herein and no action taken hereunder shall be construed to interfere with or substitute for any procedure relating to the discipline of any attorney as elsewhere provided in these rules. Any disciplinary actions relating to the inadequacy of an attorney's performance shall occur apart from the proceedings of the Committee in accordance with law and as directed by the Court.

83.2.9 Reinstatement.

A. After Disbarment or Suspension

An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with this Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume the practice of law before this Court until reinstated by order of the Court.

B. Time of Application Following Disbarment

An attorney who has been disbarred after hearing or consent may not apply for reinstatement until the expiration of at least five years from the effective date of disbarment.

C. Hearing on Application

Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court. The Chief Judge may submit the petition to the Court or may, in his or her discretion, refer the petition to the Grievance Committee which shall

within thirty days of the referral schedule a hearing at which the petitioner shall have the burden of establishing by clear and convincing evidence that he or she has the moral qualifications, competency, and learning the law required for admission to practice before this Court and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive of the public interest. Upon completion of the hearing, the Committee shall make a full report to the Court. The Committee shall include in its findings of fact as to the petitioner's fitness to resume the practice of law and its recommendations as to whether or not the petitioner should be reinstated.

D. Conditions of Reinstatement

If after consideration of the Committee's report and recommendation the Court finds that the petitioner is unfit to resume the practice of law, the petition shall be dismissed. If after consideration of the Committee's report and recommendation the Court find that the petitioner is fit to resume the practice of law, the Court shall reinstate him, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, an don the making of partial or complete restitution to all parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the Court, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment. Provided further that any reinstatement may be subject to any conditions which the Court in its discretion deems appropriate.

E. Successive Petitioners

No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

F. Deposit for Costs of Proceeding

Petitions for reinstatement under this Rule shall be accompanied by a deposit in an amount to be set from time to time by the Court in consultation with the Grievance Committee to cover anticipated costs of the reinstatement proceeding.

83.2.10 Attorneys Specially Admitted.

Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct arising in the course of or in the preparation for such a proceeding which is a violation of this Court's Local Rules and/or the Rules of Professional Conduct adopted by this Court as provided in these Rules.

83.2.11 Appointment of Counsel.

Whenever, at the direction of the Court or upon request of the Grievance Committee, counsel is to be appointed pursuant to these rules to investigate or assist in the investigation of misconduct, to prosecute or assist in the prosecution of disciplinary proceedings, or to assist in the disposition of a reinstatement petition filed by a disciplined attorney, this Court, by a majority vote of the active Judges thereof, may appoint as counsel any active member of the bar of this Court, or may, in its discretion, appoint the disciplinary agency of the highest court of the state wherein the Court sits, or other disciplinary agency having jurisdiction.

83.2.12 Service of Paper and Other Notices.

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the affected attorney at the address shown on the role of attorneys admitted to practice before this Court. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the attorney at the address shown on the role of attorneys admitted to practice before this Court; or to counsel or the respondent's attorney at the address indicated in the most recent pleading or document filed by them in the course of any proceeding.

83.2.13 Duties of the Clerk.

A. Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of this Court shall determine whether the court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk of this Court shall promptly obtain a certificate and file it with this Court.

B. Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the Clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.

C. Whenever it appears that any person who has been convicted of any crime or disbarred or suspended or censured or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, this Court shall, within ten days of that

conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence address of the disciplined attorney.

D. The Clerk of this Court shall, likewise, promptly notify the National Discipline Bank operated by the American Bar Association of any order imposing public discipline on any attorney admitted to practice before this Court.

LOCAL RULE 83.3

COMPLAINTS OF JUDICIAL MISCONDUCT AND DISABILITY

83.3.1 INTRODUCTION. Section 372(c) of Title 28 of the United States Code provides a way for any person to complain about a federal judge or magistrate judge who the person believes "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or "is unable to discharge all the duties of office by reason of mental or physical disability."

83.3.2 HOW TO FILE A COMPLAINT. Any person desiring to file a complaint against a judge of this court should follow the procedure provided in the "Rules of the Judicial Council of the Eleventh Circuit Governing Complaints of Judicial Misconduct and Disability" found at Addendum Three to the Rules of the United States Court of Appeals for the Eleventh Circuit. The requirements for filing and a sample complaint form are contained in the Addendum. The address for the Clerk of the Eleventh Circuit Court of Appeals is:

United States Court of Appeals
for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

LOCAL CRIMINAL RULE 23

CRIMINAL JURIES

All criminal cases shall be tried to a jury of twelve members unless waived in accordance with Rule 23 of the Federal Rules of Criminal Procedure.

LOCAL CRIMINAL RULE 32

PROBATION

32.1 PROCEDURES REGARDING PREPARATION AND SUBMISSION OF PRESENTENCE INVESTIGATION REPORTS. The following procedures shall apply in all divisions of the court effective on November 1, 1987, for offenses committed after October 31, 1987:

a. Ordinarily, sentencing will occur within 70 calendar days following the defendant's plea of guilty or nolo contendere, or upon being found guilty.

b. Not less than 35 days prior to the date set for sentencing, the probation officer shall provide a copy of the presentence investigation report to the defendant and to counsel for the defendant and the government. Within 14 days thereafter, counsel (or the defendant if acting pro se) shall communicate in writing to the probation officer and to each other any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

c. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary and meet with the defendant, the defendant's counsel and the attorney for the government to discuss any objections.

d. No later than 7 days prior to the date of the sentencing hearing, the probation office shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not

been resolved, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the government, that the content of the addendum has been communicated to the defendant and to counsel, and that the addendum fairly states any remaining objections.

e. Except for any objections made under subdivision (b) that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. The court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact the court may consider any reliable information presented by the probation officer, the defendant or the government.

f. Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure. The probation officer's sentence recommendation shall not be disclosed unless so ordered by the sentencing judge.

g. The presentence report shall be deemed to have been disclosed (1) when a copy of the report is physically delivered; or (2) one day after the report's availability for inspection is orally communicated; or (3) three days after a copy of the report or notice of its availability is mailed.

32.2 DISCLOSURE OF PRESENTENCE REPORTS OR PROBATION RECORDS.

a. No person shall otherwise disclose, copy, reproduce, deface, delete from or add to any report within the purview of this rule.

b. No confidential records of the court maintained at the probation office,

including presentence reports and probation supervision reports, shall be sought by any applicant except by written petition to the court establishing with particularity the need for specific information believed to be contained in such records. When a demand for disclosure of such information or such records is made by way of subpoena or other judicial process served upon a probation officer of this court, the probation officer may file a petition seeking instruction from the court with respect to the manner in which he should respond to such subpoena or such process.

c. Any party filing an appeal or cross appeal in any criminal case in which it is expected that any issue will be asserted pursuant to 18 U.S.C. § 3742 concerning the sentence imposed by the court shall immediately notify the probation officer who shall then file with the clerk for inclusion in the record in camera a copy of the presentence investigation report.

LOCAL CRIMINAL RULE 47

MOTIONS

47.1 FILING. Unless the assigned judge prescribes otherwise, every motion filed in a criminal proceeding shall be accompanied by a memorandum of law citing supporting authorities.

47.2 RESPONSE. Respondent's counsel desiring to submit a response, brief, or affidavits shall serve the same within twenty (20) days after service of movant's motion and brief.

47.3 REPLY. Movant's counsel shall serve any desired reply brief, argument, or affidavit within ten (10) days after service of respondent's response, brief, or affidavit.

47.4 PAGE LIMITATION. Except upon good cause shown and leave given by the court, all briefs in support of a motion or in response to a motion are limited in length to twenty (20) pages; the movant's reply brief may not exceed ten (10) pages.

47.5 HEARINGS. All motions shall be decided by the court without a hearing unless otherwise ordered by the court on its own motion or in its discretion upon request of counsel.

LOCAL CRIMINAL RULE 57

WITHDRAWAL OF ATTORNEYS IN CRIMINAL CASES

(a) In every criminal case retained defense attorneys shall make fee and other necessary financial arrangements satisfactory to themselves and sufficient to provide for representation of the client until the conclusion of the client's case. For purposes of this rule, a client's case is not concluded until his direct appeal, if any, is finally decided.

(b) Defense attorneys in criminal cases may not, except in extraordinary circumstances, withdraw from the representation of a client because of the client's failure to pay a fee or otherwise comply with the financial agreement with the attorney, after ten business days from arraignment.

(c) If a defendant moves the court to proceed on appeal *in forma pauperis* and/or for the appointment of Criminal Justice Act appellate counsel, or if defense counsel moves for permission to withdraw citing extraordinary circumstances, the retained attorney will be required to disclose *in camera* the total amount of fees and costs received from every source; by whom the fees and costs were paid; and the costs actually incurred and services actually rendered.